



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.07.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE M.V. MURALIDARAN

C.R.P(MD).No.1385 of 2018 and
CMP(MD).No. 5987 of 2018

P.Kanagavel ... Petitioner / 1st defendant

Vs.

1.K. Maran ... 1st respondent / plaintiff

2.The Commissioner of Police,
Madurai City,
Madurrai.

... 2nd Respondent/1st defendant

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India to call for the records in O.S.No. 741 of 2014 on the file of the Principal District Munsif Court, Madurai and strike off the same.

For Petitioner ... Mr.D.Selvaraj

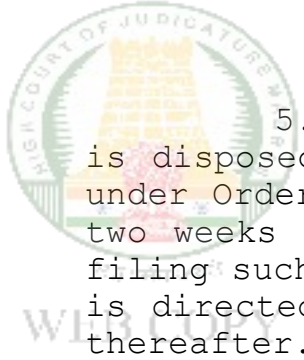
ORDER

The petitioner has filed the present Civil Revision Petition to call for the records in O.S.No. 741 of 2014 on the file of the Principal District Munsif Court, Madurai and strike off the same.

2. The revision petitioner, who is the first defendant in the suit, has filed this Civil Revision Petition to strike off the plaint filed by the first respondent / plaintiff on the ground that the suit for bare injunction should be filed by the true owner. It is admitted in the plaint that the suit has not been filed by the true owner. Since, the first respondent / plaintiff is not at all owner of the suit property, the petitioner / first defendant has filed the present Civil Revision Petition to strike off the plaint.

3. I have heard the learned counsel appearing for the petitioner and perused the materials available on record.

4. Admittedly, there is a provision under Order 7 Rule 1 CPC to file an application before the trial Court for maintainability of the suit. Since the suit has not been filed by the true owner and that the petitioner is having a valid ground to strike off the plaint, he might have to go before the Trial Court and to file a petition under Order 7 Rule 1 CPC for maintainability.



5. With the above observation, this Civil Revision Petition is disposed of. The petitioner is given liberty to file a petition under Order 7 Rule 1 CPC before the Court below, within a period of two weeks from the date of receipt of a copy of this order and on filing such petition, the learned Principal District Munsif, Madurai is directed to dispose of the same, within a period of eight weeks thereafter. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The Principal District Munsif, Madurai.

+1cc to M/S.D.Selvaraj, Advocate SR.No. 72227

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trp
JM/RP/SAR 3/24.07.2018/2P/3C